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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

In re ANTHONY P., a Person Coming  
Under the Juvenile Court Law.

RIVERSIDE COUNTY DEPARTMENT  
OF PUBLIC SOCIAL SERVICES,

Plaintiff and Respondent,

v.

ERICA A.,

Defendant and Appellant.

E039845

(Super.Ct.No. RIJ108296)

OPINION

APPEAL from the Superior Court of Riverside County. Robert M. Padia,  
Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Reversed with directions.

Monica Vogelmann, under appointment by the Court of Appeal, for Defendant  
and Appellant.

Joe S. Rank, County Counsel, and Carole A. Nunes Fong, Deputy County  
Counsel, for Plaintiff and Respondent.

Kathleen Murphy Mallinger, under appointment by the Court of Appeal, for  
Minor.

### 1. Introduction

Defendant and appellant Erica A. (mother) is the natural mother of Anthony P., a dependent child of the juvenile court. The juvenile court terminated her parental rights to Anthony. Mother appeals on the sole ground that the record showed that Anthony's father had significant Indian heritage, but the record failed to show that notices were given to the potentially interested tribes. The Riverside County Department of Public Social Service (DPSS) concedes the error. A conditional reversal is appropriate.

### 2. Factual and Procedural History

Mother and Adam P. (father) are the parents of Anthony P. When Anthony was two years old, mother was arrested for sale and transportation of methamphetamine. She had even hidden a large quantity of drugs in Anthony's diaper. Father's whereabouts at that time were not known, so the child was taken into custody.

Reunification services were denied to mother, who was sentenced to state prison for her offense, but services were provided to father. After six months, the court terminated father's reunification services; in that time, father did not enroll in a parenting class, he did not drug test, and he did not visit the child. At a selection and implementation hearing, the court terminated mother and father's parental rights, freeing Anthony for adoption.

When father appeared at the jurisdictional hearing, however, he had indicated that he had "25 percent Blackfoot" heritage, although he was uncertain whether he was

eligible for enrollment in any tribe. The juvenile court determined, “[o]n [that] skimpy information,” that there was no reasonable basis to believe that the Indian Child Welfare Act (ICWA) applied. (25 U.S.C.A. § 1901 et seq.) Accordingly, all the reports indicated that ICWA did not apply and no notices were sent to any tribes.

### 3. Analysis

#### Conditional Reversal Is Required To Comply With ICWA Notice Procedures

Mother now asserts that father’s representations amounted to substantial evidence of his and the child’s possible Indian ancestry, such that the court should have required DPSS to inquire of the relevant Indian tribes. On appeal, DPSS has conceded the issue and agrees that a conditional reversal is appropriate to permit the relevant inquiries to be made. (See *In re Francisco W.* (2006) 139 Cal.App.4th 695, 704-711; *In re Jonathan S.* (2005) 129 Cal.App.4th 334, 343; *In re Elizabeth W.* (2004) 120 Cal.App.4th 900, 909; *In re Asia L.* (2003) 107 Cal.App.4th 498, 509.)

We agree and reverse the termination order for the limited purpose of compliance with ICWA.

### 4. Disposition

The juvenile court is directed to order DPSS to give notice in compliance with the ICWA, and related federal and state laws.

Once there has been substantial compliance with the notice requirements of the ICWA, the court shall make a finding with respect to whether the child is an Indian child. If the juvenile court finds that the child is not an Indian child, it shall reinstate the original order terminating parental rights. If the juvenile court finds that the child is an Indian

child, it shall set a new selection and implementation hearing (Welf. & Inst. Code, § 366.26), and it shall conduct all further proceedings in compliance with the ICWA and all related federal and state laws.

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GAUT  
J.

We concur:

RAMIREZ  
P. J.

HOLLENHORST  
J.